Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Elimination of Rate-of-Return Regulation of Incumbent Local Exchange Carriers	)	RM-10822
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	

To: The Commission

OPPOSITION OF WIGGINS TELEPHONE ASSOCIATION, INC.

Introduction

The Wiggins Telephone Association, Inc. (Wiggins),[1] hereby respectfully submits these Comments in regards to the Western Wireless Corporation (Western Wireless) Petition for Rulemaking to Eliminate Rate-of-Return Regulation of Incumbent Local Exchange Carriers (Petition.) in the above-referenced docket.[2]

In its Petition, Western Wireless asked the Federal Communications Commission (the Commission) to eliminate rate-of-return regulation (ROR) of rural incumbent local exchange carriers (rural LECs) for the purpose of determining universal service support and interstate access charges. Western Wireless argued that such elimination would: (1) save money and stop waste, fraud and abuse; (2) create incentives for efficiency; and (3) remove barriers to competition in rural areas. Western Wireless further proposed to replace ROR with a forward-

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[1] Wiggins is a small, rural incumbent local exchange carrier based in Wiggins, Colorado that serves approximately 1,700 customers in Northeastern Colorado.

[2] *Elimination of Rate-of-Return Regulation of Incumbent Local Exchange Carriers, Federal-State Joint Board on Universal Service*, Western Wireless Petition, RM 03-10822, CC Docket No. 96-45 (released Nov. 19, 2003).

looking cost-based scheme. For the following reasons, the Commission should deny the Western Wireless Petition.

Rural Carriers are True Carriers of Last Resort

Rate-of-return regulation in a monopoly marketplace requires the rural ILECs to provide telephone service to all those seeking service, Colorado Commission Rules 4 CCR 723-42-3.1, no matter how far the customer was from the exchange's central office; this is called the "carrier of last resort" obligation. ROR enables carriers with true "carrier of last resort" responsibilities to set their rates at levels designed to recover their regulated costs and a reasonable return—unless their projections are belied by their own mistakes, regulatory changes and uncertainties, competitive growth, or other developments.

In addition, rural ILECs had to maintain a quality of service to a level prescribed by the Commission setting the rates—generally to the reliability level of 0.99999. In terms of equity, competition on a level playing field is impossible when one class of competitors can provide lower quality of service on an "as offered" service level basis and another class of competitors is held to the "carrier of last resort" standard for all of its customers. Requiring rural ILECs to provide service at less than economic costs, especially in rural areas, is not, nor will it ever be, in the public interest of the United States of America.

Rate-of-Return Is a Successful Regulatory Model

The Commission implemented ROR pursuant to the 1934 Communications Act for the purpose of providing affordable service to all, in a monopoly marketplace. The Commission has correctly concluded that ROR has worked extremely well in extending reliable telephone service to rural America.[3] Now is not the time to throw a world-renowned, successful regulatory model on the scrap heap. In fact, some claim that rural LECs may need ROR to deploy advanced broadband services that hold so much economic and social promise for rural, underserved areas of the country.

In light of the Petition, Wiggins has prepared loop cost analysis studies to identify areas within its exchanges that it may not be able to serve if the revenues from basic services are less than the economic costs associated with forward-looking cost models. Are new entrants in the market willing to reliably serve customers stuck in these remote, sparsely populated areas at their lower costs? Unfortunately, the economics lead to a "no" answer. The hard reality is that Wiggins' customers may be in danger of losing a historically relied-upon service in the absence of ROR.

Rural Carriers in Remote Areas Need Regulatory Flexibility

The Commission should enable carriers to suit their form of regulation to the challenges of their service areas on a study-area-by-study-area basis. Accordingly, mandating a non-sunk-cost scheme of regulation before a rural LEC is ready significantly risks sacrificing the LEC's incentive to invest in evolving network capabilities and services, quality of service and reasonably comparable rural and urban rates and services.[4] Since competition is spreading to all service markets (local and long distance voice, Internet/data, and video services), flexibility is necessary for rural ILECs before customers are hurt by competitive entry under market conditions distorted by pre-competitive era regulations. Rural LECs are best suited to decide

[3] In November 2003, the Commission released a "Telephone Subscribership Report" that indicated that the telephone subscribership penetration rate in the United States was 95.5 %; it is up 0.2% from the last report of November 2002.

[4] Wiggins has certified with the Commission that it uses Interstate Common Line Support and Long Term Support only for the provision, maintenance and upgrading of eligible facilities and services. This support directly benefits Wiggins' customers in rural areas.

their regulatory model since they have the historical experience in serving their customers and they understand the current and future economic models to continue this legacy of service in hard to serve areas.

Conclusion

For the foregoing reasons, we urge the Commission to consider Wiggins' experiences and observations described in this Opposition and to deny the Western Wireless Petition.

Respectfully submitted,

WIGGINS TELEPHONE ASSOCIATION, INC.

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